

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JAMES LYNN GARRETT and)	
SHANNON MARIE GARRETT)	
)	Judge Shadur
Plaintiffs,)	
)	Magistrate Judge Cox
v.)	
)	Case No.: 07 C 6882
ILLINOIS STATE TOLL HIGHWAY)	
AUTHORITY, JIMMI MARSHALL,)	
FREDDY DICKERSON, MARIO))	
CALABRESE, PAUL EDWARD)	
GONZALEZ, JOHN BENDA,)	
DONALD J. McLENNAN, STEVEN T.))	
MUSSER, and MICHAEL ZADEL)	
)	
Defendants.))	

**PLAINTIFF'S MOTION TO DISMISS THE COUNTERCLAIM OF THE
DEFENDANT, ILLINOIS STATE TOLL HIGHWAY AUTHORITY**

Now comes the plaintiff, JAMES LYNN GARRETT, by his attorney, JOHN M. DUGAN, and moves this Honorable Court for the entry of an Order dismissing the counterclaim for property damage filed by defendant, Illinois State Toll Highway Authority. In support of said motion the plaintiff states as follows:

1. The Illinois State Toll Highway Authority is a defendant in the State of Illinois, County of Cook, Court case of Marissa Lingafelter, et al. v. Illinois State Toll Highway Authority, et al. number 06 L 1810 that was filed on March 23, 2006.

2. A copy of the Complaint filed in the State of Illinois, County of Cook, Court case of Marissa Lingafelter, et al. v. Illinois State Toll Highway Authority, number 06 L 1810 has been filed in this case as pages 41 to 61 of Document 21-3.

3. On April 17, 2006, the Illinois State Toll Highway Authority filed its Answer in the State of Illinois, County of Cook, Court case of Marissa Lingafelter, et al. v. Illinois State Toll Highway Authority, number 06 L 1810 that included a

counterclaim for property damage against JAMES LYNN GARRETT, one of the plaintiffs in this case.

4. A copy of the Answer filed by the Illinois State Toll Highway Authority in the State of Illinois, County of Cook, Court case of Marissa Lingafelter, et al. v. Illinois State Toll Highway Authority, number 06 L 1810 has been filed in this case as pages 30 to 38 of Document 21-3, with the counterclaim for property damage against JAMES LYNN GARRETT found at pages 37 and 38 of Document 21-3.

5. On June 5, 2008, the Illinois State Toll Highway Authority filed its Answer in this case as Document 28 that includes a counterclaim for property damage against JAMES LYNN GARRETT at pages 6 and 7 of Document 28.

6. The counterclaim for property damage against JAMES LYNN GARRETT that is contained in the Answer filed by the Illinois State Toll Highway Authority in the State of Illinois, County of Cook, Court case of Marissa Lingafelter, et al. v. Illinois State Toll Highway Authority, number 06 L 1810 is the same counterclaim for property damage filed by the Illinois State Toll Highway Authority against JAMES LYNN GARRETT in this case.

7. The counterclaim for property damage against JAMES LYNN GARRETT contained in the Answer filed by the Illinois State Toll Highway Authority in the State of Illinois, County of Cook, Court case of Marissa Lingafelter, et al. v. Illinois State Toll Highway Authority, number 06 L 1810 remains pending.

8. The Illinois State Toll Highway Authority should not be allowed to maintain the same counterclaim for property damage against JAMES LYNN GARRETT in two different actions.

WHEREFORE, the plaintiff, JAMES LYNN GARRETT prays for an order dismissing the counterclaim for property damage against JAMES LYNN GARRETT in this action.

Respectfully submitted,

S/John M. Dugan

JOHN M. DUGAN

Attorney for Plaintiff

Dated August 15, 2008

JOHN M. DUGAN

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